

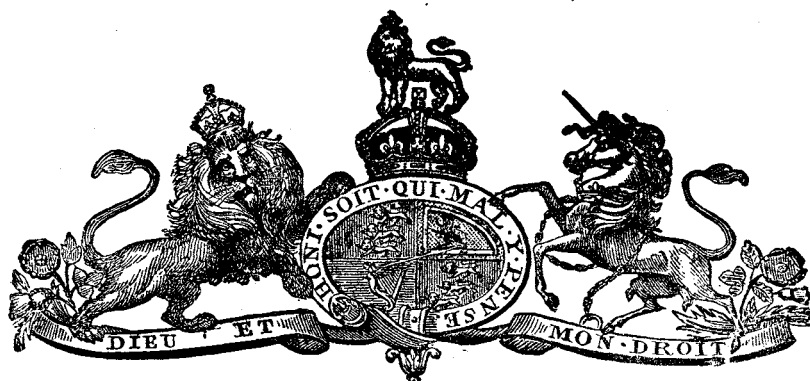
TASMANIA.

THE SUPREME COURT ACT 1935.

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TASMANIA.



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 16.

AN ACT to amend certain Acts relating to the
Administration of Justice in the Supreme
Court.

[27 August, 1935.]

A.D.
1935.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as the *Supreme Court Act* 1935.

Short title.

2 The Acts enumerated in the schedule are hereby repealed.

Repeal.

3 The Act of the second year of the reign of His Majesty King William the Fourth, number one, intituled *An Act for the Effectual Administration of Justice in the Supreme Court of Van Diemen's Land*, is hereby amended—

Amend-
ment of 2
Wm. IV.
No. 1.

I. By expunging the preamble thereto and deleting the word Preamble.
“therefore” in the enactment clause thereto :

II. By repealing sections one, three, and four thereof :

Repeal of
sections 1,
3, and 4.

*Supreme Court.*A.D.1935. Section 2.

III. As to section two thereof—

(a) By expunging the preamble thereto :

(b) By deleting the words—

(i) “Be” in the first line to “that” in the second line and substituting “(1)” :

(ii) “or” in the third line to “seal” in the fourth line :

(iii) “or persons” ; “respectively” ; “and master” to “records” ; “said” ; “so” ; and “said” in the fourth, fifth, and sixth lines :

(iv) “And” and substituting “(2)” ; and “respectively” in the seventh line :

(v) “and master” to “respectively” ; “such” and “or warrants” in the eighth, ninth, and tenth lines :

(vi) “or persons” ; and “And” and substituting “(3)” in the eleventh line :

(vii) “said” and “so” in the thirteenth line :

(viii) “said” ; and “from” to “Act” in the fourteenth line :

(ix) “said” ; and “so” in the fifteenth line : and

(x) all the words from “and it” in the nineteenth line to the end of the section : and

(c) By substituting “person” for “persons” ; “him” for “them” ; and “office” for “offices” in the seventh, tenth, and eleventh lines respectively :

Section 5.

IV. As to section five thereof—

(a) By expunging the preamble thereto :

(b) By deleting the words “Be it therefore enacted that” in the first line : and

(c) By deleting the word “said” .

New
section 6.V. By inserting after section five the following new section
six—

Short title.

“6 This Act may be cited as the *Supreme Court Act* 1831.”Amend-
ment of 7
Vict. No.
10 and 7
Vict. No.
19.**4** The Act of the seventh year of the reign of Her Majesty Queen Victoria number ten, intituled *An Act to remove Doubts respecting the Administration of Justice in certain cases before a single Judge of the Supreme Court and for other purposes relating thereto*, is hereby amended—

Title.

I. By substituting for the title thereto the following new title,
“*An Act to amend the Supreme Court Act 1831*” :

Supreme Court.

- II. By expunging the preamble thereto and deleting the words Preamble. **A.D. 1935.**
 “therefore and it is hereby” in the enactment clause thereof:
- III. By deleting from section one thereof all the words “for Section 1.
 and notwithstanding” to “enacted and declared that”;
 and substituting the figure “1”; the word “such” (before
 “Judge” (thrice occurring) and before “session,” first
 occurring); and the words “so” (before “sitting”); “that”
 (twice occurring); and “said” (before “Supreme
 Court”):
- IV. By repealing section two thereof (inserted by the *Supreme* Repeal of
Court Act 1926) and substituting therefor the following section 2:
 new section two:—
 “**2** Any judge sitting singly and alone as aforesaid No. 5.
 shall hold and constitute, and shall be deemed and taken to New
 have held and constituted, the Supreme Court, and shall section 2.
 have and be deemed to have had vested in him the like 7 Vict. No.
 power and authority of the said Court and the two judges 19.
 thereof to all intents and purposes whatsoever in as full
 and ample a manner as that power and authority would be
 vested in both the said judges if assembled and sitting at
 or in the said Court together.”: Judge
 sitting alone
 to constitute
 Supreme
 Court.
- V. By inserting after the said section two the following new New
 sections three and four:— sections 3
 and 4.
 “**3**—(1) If from any cause any judge shall be prevented
 from opening, or shall not open, the session or sittings
 appointed to be held at any place on the day appointed
 therefor, the same shall be opened and holden, either by the
 same or some other judge, as soon afterwards as is practic-
 able. Postpone-
 ment of
 sittings.
 “(2) If in any case the judges, or any one of them, are
 or is of opinion that the matters requiring to be dealt with
 at any session or sittings appointed to be held at any place
 are not of sufficient number or importance to justify the
 holding of such session or sittings, or that for any other
 reason it is desirable so to do, they or he may, by order in
 writing, postpone such session or sittings to some later date
 specified in such order, or may direct that such matters
 shall be dealt with at some subsequent session or sittings to
 be holden at the same place.
 “(3) In any case in which the trial of any person has
 been postponed as aforesaid, such person shall be deemed to
 have been remanded to stand his trial at the time fixed by
 such order as aforesaid, and any bond or recognisance
 entered into for the appearance of such person to stand his
 trial shall be construed as enlarged accordingly.
 “**4** This Act may be cited as the *Supreme Court Act*
 1844.” Short title.

Supreme Court.

A.D. 1935.

Amend-
ment of 19
Vict. No.
23.

Title.

Preamble.

Repeal of
sections 1,
6, 7, and 8.

Section 2.

New
section 1.

Short title.

5 The Act of the nineteenth year of the reign of Her Majesty Queen Victoria, number twenty-three, intituled *An Act to Facilitate the Administration of Justice in the Supreme Court*, is hereby amended:—

I. By substituting for the said title the following new title “*An Act to Amend the Supreme Court Act 1831*”:

II. By expunging the preamble thereto and deleting the word “therefore” in the enacting clause thereof:

III. By repealing sections one, six, seven, and eight thereof:

IV. By deleting the words “said” (in the first line) and “of Tasmania” in section two thereof: and

V. By inserting in place of repealed section one thereof the following new section one—

“**1** This Act may be cited as the *Supreme Court Act 1856*.”

Amend-
ment of 21
Vict. No.
12.

Title.

Preamble.

Section 2.

Repeal of
section 3.

Section 4.

New
section 5.

Short title.

6 The Act of the twenty-first year of the reign of Her Majesty Queen Victoria, number twelve, intituled *An Act to abolish the office of Master of the Supreme Court*, is hereby amended—

I. By inserting after the word “Act” in the said title thereto the words “to amend the *Supreme Court Act 1831* and”:

II. By expunging the preamble thereto and deleting the word “therefore” in the enacting clause thereof:

III. By deleting the words “for the time being” in section two thereof:

IV. By repealing section three thereof:

V. By deleting the words “and take effect” and “on which” to “repealed” in section four thereof: and

VI. By inserting after section four thereof the following new section five—

“**5** This Act may be cited as the *Supreme Court Act 1857*.”

Amend-
ment of 50
Vict. No.
36.

Preamble.

Title.

Section 2.

Sections 1
and 4.

7 The Act of the fiftieth year of the reign of Her Majesty Queen Victoria number thirty-six, intituled *An Act to make provision for the Appointment of an Additional Judge of the Supreme Court and for other purposes*, is hereby amended—

I. By expunging the preamble thereto and deleting the word “therefore” in the enacting clause thereof:

II. By inserting after the word “to” in the said title thereto the words “amend the *Supreme Court Act 1831*, and to” and by deleting the words “and for other purposes” therein:

III. By deleting the words “by any” to “force” in section two thereof:

IV. By substituting the words and figures “the *Legal Practitioners Act 1896*” for the words and figures “the *Barristers and Attorneys Act 1874*” wherever occurring therein:

Supreme Court.

- V. By deleting from section three thereof the words "there" Section 3. **A.D.1935.**
(at the beginning thereof) to "and" (secondly occurring
in the third line) and by inserting the figures "1880"
after the word "Act" in the next line:
- VI. By inserting the figure "(1)" at the beginning of section Section 4.
four thereof; and deleting the words "notwithstanding" 9 Ed. VII.
to "Act"; and inserting at the end of that section the No. 37.
following new subsection (2) :—
“(2) In addition to barristers heretofore eligible therefor,
barristers of the Supreme Court of any State of the Com-
monwealth or New Zealand of the age of thirty-five years
or upwards, and of not less than ten years’ standing at the
bar of any such Court, or ten years’ standing in the aggre-
gate at the bar of any such Court, and of the Supreme
Court of Tasmania, shall be eligible for the office of any
judge of the Supreme Court of this State.” :
- VII. By deleting the words "Colony" to "notwithstanding" Section 5.
and substituting "State" in section five thereof :
- VIII. By deleting the words "of the Court" in the fourth line of Section 8.
section eight thereof and substituting the words "and such
duties of the Registrar as they may think fit" :
- IX. By inserting the figure "(1)" at the beginning of section Section 6.
six thereof and the figure "(2)" before "Where" in
that section :
- X. By repealing sections nine, ten, and twelve thereof and Repeal of
substituting for section ten the following new section ten:— sections 9,
10, and 12.
“**10** Where any judge of the Supreme Court, on account New
of having advised upon or being interested in any matter, section 10.
suit, or other proceeding in or before the said Court, con- 9 Ed. VII.
siders it advisable so to do, he may retire from the bench No. 62.
on the hearing of such matter, suit, or other proceeding ;
and upon such retirement the remaining judges or judge
shall be deemed to constitute the Full Court, and in regard
to such matter, suit, or other proceeding all powers by law
vested in the Full Court may be exercised by such remain-
ing judges or judge.” :
- XI. As to section eleven thereof— Section 11.
(a) By inserting the figure "(1)" before the word "sit-
tings" in the first line :
(b) By deleting the words—
(i) "Said" in lines one and three :
(ii) "any"; "now" to "passed"; "time or";
and "place or":
(iii) "said Court" and substituting "judges":
(iv) "from time to time":
(v) "And" and substituting "(2)"; "of the
said Court"; and "the town of": and

Consti-
tution of
Full Court
by two
judges in
certain
cases.

*Supreme Court.*A.D. 1935.62 Vict.
No. 25.New
section 12.

Short title,

(c) By inserting at the end thereof the following new subsection (3) :—

“(3) One of the judges shall attend in Chambers at Launceston at least one day in each week, unless previously notified by the Deputy-Sheriff that his attendance is not required ; but a judge shall not be obliged to attend at Launceston when his services are necessary in Hobart during Term time, or for the sittings of the Supreme Court.” : and

XII. By substituting for repealed section twelve the following new section twelve—

“**12** This Act may be cited as the *Supreme Court Act* 1887.”.

SCHEDULE.

Regnal Year and Number.	Title of Act.
5 Wm. IV. No. 16	<i>An Act to provide for the Appointment of Commissioners of the Supreme Court and to define the powers of such Commissioners</i>
4 Vict. No. 21	<i>An Act to give validity to certain acts done by the Registrar of the Supreme Court between the twentieth day of December, one thousand eight hundred and thirty-eight, and the first day of March, one thousand eight hundred and thirty-nine</i>
7 Vict. No. 19	<i>An Act to remove Doubts as to the Nature of the Court holden by a single Judge of the Supreme Court</i>
16 Vict. No. 6	<i>An Act for the better Advancement of Justice and for the Appointment of certain Commissioners of the Supreme Court of Van Diemen's Land</i>
20 Vict. No. 6	<i>An Act to declare the Law in the Case of a Judge of the Supreme Court becoming President of the Legislative Council</i>
27 Vict. No. 54	<i>An Act to substitute Letters Patent under the Public Seal of the Colony for Letters Patent under the Great Seal of the United Kingdom in the Appointment of the Judges of the Supreme Court of Tasmania</i>
62 Vict. No. 27	<i>An Act to repeal the Supreme Court Act 1895</i>
9 Ed. VII. No. 37	<i>The Supreme Court Act 1909</i>
9 Ed. VII. No. 62	<i>The Supreme Court Act (No. 2) 1909</i>
17 Geo. V. No. 5	<i>The Supreme Court Act 1925</i>